

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

Jeraldine Johnson,

Plaintiff,

v.

Fifth Third Bank,

Defendant.

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Civil Action No.: _____

DEMAND FOR JURY TRIAL

COMPLAINT & JURY DEMAND

For this Complaint, the Plaintiff, Jeraldine Johnson, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et. seq. (the "TCPA").
2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business here, Plaintiff resides in this judicial district, and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

4. The Plaintiff, Jeraldine Johnson ("Plaintiff"), is an adult individual residing in Pontiac, Michigan, and is a "person" as defined by 47 U.S.C.A. § 153(39).
5. Defendant Fifth Third Bank ("Fifth"), is a Ohio business entity with an address of 38 Fountain Square Plaza, Cincinnati, Ohio 45263, and is a "person" as defined by 47 U.S.C.A. § 153(39).

6. Fifth at all times acted by and through one or more of the agents.

FACTS

7. Beginning in December, 2013, Fifth contacted Plaintiff in an attempt to a debt allegedly owed by Plaintiff.

8. At all times mentioned herein, Fifth contacted Plaintiff by placing calls to Plaintiff's cellular phone, using an automated telephone dialer system with an artificial or prerecorded voice of 47 U.S.C. § 227(b)(1)(A)(iii), (hereafter "Robocalls").

9. When Plaintiff answered the Robocalls from Fifth, she would hear a prerecorded message which instructed her to stay on the line in order to be connected to a live representative.

10. Frustrated with the excessive rate in which she was receiving Robocalls, on February 2, 2014, Plaintiff waited on the line after receiving a Robocall from Credit in order to be connected to a live representative. During her conversation with a live representative, Plaintiff requested that Fifth cease Robocalling her cellular phone attempting to collect.

11. Despite Plaintiff's instructions, Fifth continued to harass Plaintiff with Robocalls at a rate of over twenty calls since her original request for the calls to cease. The excessive Robocalls caused Plaintiff significant inconvenience.

COUNT I

VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT – 47 U.S.C. § 227, et seq.

12. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

13. Defendant contacted Plaintiff using an automatic telephone dialing system and/or by using a prerecorded or artificial message on a cellular telephone of 47 U.S.C. § 227(b)(1)(A)(iii).

14. Plaintiff revoked her consent to be contacted by Defendant on her cellular telephone by her demand to cease calling her cellular telephone.

15. The calls from Defendants to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. Each of the aforementioned calls made by Defendant constitutes a negligent or intentional violation of the TCPA, including each of the aforementioned provisions of 47 U.S.C. § 227, et. seq.

17. As a result of each of Defendant’s negligent violations of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

18. As a result of each of Defendant’s knowing and/or willful violations of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each and every violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
2. Punitive damages against Defendant; and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: March 25, 2014

Respectfully submitted,

By: /s/ Sergei Lemberg, Esq.
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